

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

**RUTH SAMUEL, as the Personal  
Representative of the Estate of  
Nathan Samuel, deceased,**

**Plaintiff,**

**vs.**

**CITY OF BROKEN ARROW,  
Oklahoma, a municipal corporation,  
and STEPHEN GARRETT, an  
individual,**

**Defendants.**

**Case No. 10-CV-683 GKF-TLW**

**ANSWER OF DEFENDANT STEPHEN GARRETT**

COMES NOW Defendant Stephen Garrett, by and through his respective attorney of record, and in answer to Plaintiff's petition, states as follows:

1. Defendant Garrett is without sufficient information to form a belief regarding the allegation contained in Paragraph I of Plaintiff's Petition, and therefore, denies same.
2. The allegations contained in Paragraph II of Plaintiff's Petition are not directed towards this answering defendant and therefore it requires no response.
3. Defendant Garrett admits the allegations contained in Paragraph III of Plaintiff's Petition.
4. Defendant Garrett is without sufficient information to form a belief as to whether the Plaintiff has met all conditions precedent to the filing of this action as required by the Governmental Tort Claims Act, and therefore, denies the same. The remaining portion of Plaintiff's Paragraph IV is a statement of law that requires

no response. To the extent the Court deems a response is necessary, the remaining allegations contained in Paragraph IV of Plaintiff's Petition are denied.

5. Defendant Garrett admits that on October 6, 2009, that he shot Nathan Samuel who subsequently died. Defendant Garrett denies the shooting was wrongful. Defendant Garrett is without sufficient information to form a belief regarding the remaining allegations contained in Paragraph V of Plaintiff's Petition, and therefore, denies the same.
6. Defendant Garrett denies the allegations contained in Paragraph VI of Plaintiff's Petition.
7. Defendant Garrett admits he was acting in his official capacity and under color of state law. The remaining allegations contained in Paragraph VII of Plaintiff's Petition are denied.
8. Defendant Garrett denies the allegations contained in Paragraphs VIII and IX of Plaintiff's Petition.

#### **AFFIRMATIVE DEFENSES**

1. Plaintiff has failed to state a cause of action upon which relief can be granted against this Defendant.
2. The Plaintiff's pendent claims against Defendant Garrett are barred by the Oklahoma Governmental Tort Claims Act, 51 O.S. 151 *et. seq.*
3. All actions by Defendant Garrett were in good faith and objectively reasonable under the circumstances. Therefore, no constitutional violation occurred.
4. Defendant Garrett is entitled to qualified immunity.

5. Defendant Garrett affirmatively states that the City of Broken Arrow has no policies or customs that were the motivating force, or the cause of, any of the constitutional deprivations suffered by Plaintiff, if any.

Defendant Stephen Garrett reserves the right to amend his answer and add additional affirmative defenses as discovery continues.

WHEREFORE, having fully answered, Defendant, Stephen Garrett, prays for judgment in his favor and for his costs, attorney fees, and such other and further relief, as this Court deems just and equitable.

JURY TRIAL DEMANDED.

Respectfully submitted,

/s/Scott B. Wood

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*Attorneys for Defendant Stephen Garrett*

**CERTIFICATE OF SERVICE**

This is to certify that on October 26, 2010, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

James E. Fraiser  
Steven Hickman  
George Miles  
Beth Anne Wilkening

/s/ Scott B. Wood

Scott B. Wood